

April 13, 2020



U.S. Department
of Transportation

East Building, PHH-30
1200 New Jersey Avenue S.E.
Washington, D.C. 20590

**Pipeline and Hazardous
Materials Safety Administration**

DOT-SP 20954

EXPIRATION DATE: 2021-09-30

(FOR RENEWAL, SEE 49 CFR § 107.109)

1. GRANTEE: BNSF Railway Company
Fort Worth, TX
2. PURPOSE AND LIMITATION:
 - a. This special permit authorizes the use of electronic means to maintain and communicate on-board train consist and shipping paper information in lieu of paper documentation when hazardous materials are transported by rail. This special permit provides no relief from the Hazardous Materials Regulations (HMR) other than as specifically stated herein. The most recent revision supersedes all previous revisions.
 - b. The safety analyses performed in the development of this special permit only considered the hazards and risks associated with the transportation in commerce.
 - c. Unless otherwise stated herein, this special permit consists of the special permit authorization letter issued to the grantee together with this document.
 - d. No party status will be granted to this special permit.
3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180.

Tracking Number: 2019104192

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4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR § 172.203(a) in that the special permit number must be marked on the shipping papers; § 174.26 in that a train crew must have a document reflecting the current position in the train of each rail car containing a hazardous material.
5. BASIS: This special permit is based on the application of BNSF Railway Company dated October 7, 2019 submitted in accordance with § 107.105 and the public proceeding thereon.
6. HAZARDOUS MATERIALS (49 CFR 172.101): As authorized in the HMR.
7. SAFETY CONTROL MEASURES:
 - a. PACKAGING: As required in the HMR.
 - b. OPERATIONAL CONTROLS:
 - (1) The following information must be readily available by electronic means to the train crew during operations; and to Federal, State or local government representatives (e.g., emergency responders) in the event of an accident or inspection:
 - (i) Shipping paper information required pursuant to 49 CFR Part 172, Subparts C and G.
 - (ii) The current position and identification numbers for all rail cars containing hazardous materials.
 - (iii) Any changes to position of railcars in the train consist must be updated electronically, in real-time, as railcars are added or removed from the train.
 - (2) As soon as practicable, grantee must transmit updated car position information to Railinc for use in the AskRail application.
 - (3) The train crew must be provided mobile device(s) containing the following:

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(i) Instructions to the train crew on how to provide the information required by paragraph (1) above in electronic format to Federal, State or local government representatives; and

(ii) A copy of this special permit.

(iii) This information must be included in the grantees HM-rules.

(4) More than one method of electronic information exchange must be made available to train crews to ensure redundancy and account for potential mobile device limitations of the requesting authority. Upon initial notification of the incident to the agency having jurisdiction ("AHJ") a copy of the train consist is offered to the AHJ.

(5) One of the selected method of electronic information exchange must allow for immediate exchange of information to the onsite responders.

(6) In the event electronic communication is unavailable, one of the following communication options may be utilized to communicate to first responders.

(i) Conventional land line or facsimile.

(ii) An alternative communication method (e.g. land mobile radio communication, satellite phones) to provide up-to-date electronic shipping paper and train placement information.

(iii) Training for first responders along areas of the route without cellular service on the methods to be taken in an emergency to access the information on the electronic device when communication with an employee from the railroad is not possible.

(7) Each employee subject to functions covered by this special permit will receive training on how to perform these functions.

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(8) The grantee must provide notification and instruction on the use of this special permit to the to the emergency response officials along the right of way where the permit is being used.

c. REPORTING REQUIREMENTS:

(1) The grantee in addition to other notification requirements in this special permit, will electronically notify the Associate Administrator for Hazardous Materials Safety of any incidents involving operations under this special permit by using the following email address: specialpermits@dot.gov.

(2) In the event of an incident where information is shared electronically with first responders, the grantee must document the incident in a report and maintain the report for up 12 months after the incident. Report(s) must be made available to DOT representatives upon request. The report must include (at a minimum) the following:

- (i) Time/Date of Request,
- (ii) Estimated time between request and information exchange,
- (iii) Means of electronic information exchange (e-mail, air drop, etc.)
- (iv) Requestor Name,
- (v) Requestor Position and Agency,
- (vi) Phone Number, and
- (vii) Email Address

(3) A consolidated report of information required under paragraphs 7.c.(2) and 7.c.(3) above must be submitted to the Associate Administrator for Hazardous Materials Safety every six months via e-mail using the following e-mail address: specialpermits@dot.gov. The consolidated report must include an evaluation of each occurrence where the information exchange failed and corrective actions to prevent reoccurrence.

(4) The grantee must provide a report identifying the routes for which the electronic consist will be used. This report shall be updated and provided to PHMSA and FRA as routes are removed or added. Reports will be

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provided using the following email addresses:
specialpermits@dot.gov and HMAssist@dot.gov.

8. SPECIAL PROVISIONS:

a. A person who is not a holder of this special permit who receives a package covered by this special permit may reoffer it for transportation provided no modification or change is made to the package or its contents and it is reoffered for transportation in conformance with this special permit and the HMR.

b. A current copy of this special permit must be maintained at each facility where a train is operating under the terms of this special permit.

9. MODES OF TRANSPORTATION AUTHORIZED: Rail freight.

10. MODAL REQUIREMENTS: None.

11. COMPLIANCE: Failure by a person to comply with any of the following may result in suspension or revocation of this special permit and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq:

- o All terms and conditions prescribed in this special permit and the Hazardous Materials Regulations, 49 CFR Parts 171-180.
- o Persons operating under the terms of this special permit must comply with the security plan requirement in Subpart I of Part 172 of the HMR, when applicable.
- o Registration required by § 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in § 171.8, who performs a function subject to this special permit must receive training on the requirements and conditions of this special permit in addition to the training required by §§ 172.700 through 172.704.

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No person may use or apply this special permit, including display of its number, when this special permit has expired or is otherwise no longer in effect.

Under Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)–“The Hazardous Materials Safety and Security Reauthorization Act of 2005” (Pub. L. 109-59), 119 Stat. 1144 (August 10, 2005), amended the Federal hazardous materials transportation law by changing the term “exemption” to “special permit” and authorizes a special permit to be granted up to two years for new special permits and up to four years for renewals.

12. REPORTING REQUIREMENTS: Shipments or operations conducted under this special permit are subject to the Hazardous Materials Incident Reporting requirements specified in 49 CFR §§ 171.15 - Immediate notice of certain hazardous materials incidents, and 171.16 - Detailed hazardous materials incident reports. In addition, the provisions of Paragraph 7 c. also apply.

Issued in Washington, D.C.:



for William Schoonover
Associate Administrator for Hazardous Materials Safety

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation, East Building PHH-30, 1200 New Jersey Avenue, Southeast, Washington, D.C. 20590.

Copies of this special permit may be obtained by accessing the Hazardous Materials Safety Homepage at http://hazmat.dot.gov/sp_app/special_permits/spec_perm_index.htm Photo reproductions and legible reductions of this special permit are permitted. Any alteration of this special permit is prohibited.

PO: Kenny Herzog